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10/664,473

09/17/2003

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EXAMINER

AGWUMEZIE, CHARLES C

ART UNIT

PAPER NUMBER

3685

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/664,473	<b>Applicant(s)</b> GARIBAY ET AL.	
	<b>Examiner</b> CHARLES C. AGWUMEZIE	<b>Art Unit</b> 3685	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 September 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-129 is/are pending in the application.
- 4a) Of the above claim(s) 19-66, and 68-119, is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18, 67-76 and 120-129 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>see continuation</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

09/17/03; 03/11/05; 05/26/06; 01/17/07; 08/06/07; 10/31/07; 02/27/08; 05/23/08; 06/19/08; 08/21/08 and 09/17/08

## **DETAILED ACTION**

### **Acknowledgment**

1. Applicants' amendment filed on September 18, 2008 is acknowledged. Accordingly claims 1-9, 10-18, 67-76, and 120-129, remain pending.

### **Response to Arguments**

2. Applicant's arguments filed on September 18, 2008 have been fully considered but they are not persuasive.
3. With respect to **claims 1, 10, 67 and 120** as amended, Applicant argues that "the licenses are selected in the batch mode from a license search result page" and that this feature is not shown or made obvious by the cited prior art. Specifically that the license packs of Aldis and the batch licenses of Ross are not selected from a license search page, as claimed in the independent claims.
4. In response, Examiner respectfully disagrees and submits that Ross in combination with Aldis does disclose that "the licenses are selected in the batch mode from a license search result page" For example Ross made it clear that one or more licenses in a batch of licenses can be enabled to create a software license. Accordingly Ross does disclose the claimed limitation. Furthermore Aldis discloses a license pack. A license pack contains one or more digital licenses. Therefore a license pack is equivalent to the multiple software licenses in a batch mode as disclosed by present invention. Aldis further discloses that the license inventory service 26 is used by content providers 4, distributors 6, and end users 8 to manage their licenses stored in the

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database 20. That License inventory service 26 is comprised of several management functions for different "users" (e.g., content providers 4, distributors 6, and end users 8), which may include browsing their inventory, browsing other users' inventories if they have permission, inventory searching capabilities, and license acquisition functions (0078). Aldis further discloses that the providers can browse their corresponding inventory to search and view the licenses they have created (0087). Aldis further made it clear that the Users can also be provided with an application that allows them to browse or search for items in aggregated datasets (batch mode?), and to purchase or otherwise acquire selected items via a transaction involving the computer-dependent product code and activation code (0121; see also 0124 and claim 15). If Aldis does not provide the claimed license search page where then do the users browse and search result displayed? It is Examiner's position that the browse and search result will be displayed to the user on a search page or license search page. Accordingly Aldis does disclose the claimed license search page and the results of the combination would have been predictable to one of ordinary skill in the art. For these reasons claims 1, 10, 67 and 120 and the claims dependent there from are not patentable over the references of record.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-8, 10-17, 67-76, and 120-129**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Aldis et al U.S. Patent Application Publication No. 2004/0039916 A1 in view of Ross et al U.S. patent No. 5,553,143 and further in view of Stupek Jr. et al U.S. Patent No. 5,960,189.

7. As per **claim 1, 10, 67, and 120**, Aldis et al discloses a method comprising:  
maintaining digital records of software licenses, the digital records indicating rights associated with software licenses (0005; 0015; 0121).

under the control of a software user, upgrading or downgrading the software version for multiple software licenses in a batch mode, an indication of the upgrade or downgrade being stored in the digital record (see abstract (see figs. 4 and 5; 0008; 0010; 0011; 0019; 0139; 0070; "license packs");

Aldis et al teaches that the digital license can be distributed in a license pack. A license pack contains one or more digital licenses. Arguably a license pack is equivalent to the multiple software licenses in a batch mode as disclosed by present invention (see figs. 4 and 5; 0008; 0010; 0011; 0019; 0139; 0070; "license packs").

8. What Aldis does not explicitly disclose is that the upgrade or downgrade is done in a batch mode and

wherein the upgrading or downgrading of the software licenses includes displaying a page that shows current licenses to the user and receiving from the user an indication of what current licenses are selected to upgrade or downgrade, as well as an

indication to upgrade or downgrade the selected licenses in the batch mode, the upgrading and downgrading involves providing new license keys for the upgrade/downgrade version, as well as disabling the license keys for the old versions

wherein the licenses are selected in the batch mode from a license search result page (Aldis et al however teaches that the digital license can be distributed in a license pack. A license pack contains one or more digital licenses. Arguably a license pack is equivalent to the multiple software licenses in a batch mode as claimed by present invention).

**9.** Ross et al discloses a method comprising: under the control of a software user, upgrading or downgrading the software version for multiple software licenses in a batch mode, an indication of the upgrade or downgrade being stored in the digital record (see abstract; col. 1, line 65-col. 2, line 15, which discloses that one or more licenses in a batch of licenses can be enabled to create a software license; col. 30-35; col. 4, lines 25-35; ...a batch of licenses may be anchor or upgrade licenses...);

wherein the licenses are selected in the batch mode from a license search result page (see abstract; col. 1, line 65-col. 2, line 15, which discloses that one or more licenses in a batch of licenses can be enabled to create a software license)

**10.** Stupek Jr. et al discloses wherein the upgrading or downgrading of the software licenses includes displaying a page (window list box 51 is displayed to the user, fig. 6) that shows current licenses to the user (shows current version, fig. 9) and receiving from the user an indication of what current licenses are selected to upgrade or downgrade, as well as an indication to upgrade or downgrade the selected licenses in the batch

mode, the upgrading and downgrading involves providing new license keys for the upgrade/downgrade version, as well as disabling the license keys for the old versions (see fig. 5; “can the user select this package for upgrade”; fig. 6, “list box displayed to the user”; see also figs. 9 and 10, installed version 2.30, newest version 2.40; col. 4, lines 45-55, which discloses “when the upgrade advisor 11 and/or user have selected the network resources 3 that need to be upgraded”; see col. 6, line 60-17, which discloses “package can be displayed to the user through a user interface”; col. 9, lines 15-40, which discloses ... display or report upgrade to the user including using color coded visual object...);

**11.** Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant’s invention to modify the method of Aldis et al and incorporate the method wherein under the control of a software user, upgrading or downgrading the software version for multiple software licenses in a batch mode, an indication of the upgrade or downgrade being stored in the digital record and displaying a page as taught by Ross et al and Stupek Jr. et al respectively since the claimed invention is merely a combination of old and known elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary art would have recognized that the results of the combination were predictable.

**12.** As per **claims 2, 11, 68, and 121**, Aldis et al further discloses the method, wherein the upgrading or downgrading of rights is associated with the license key (0019; 0070).



**13.** As per **claims 3, 12, 69, and 122**, Aldis et al further discloses the method, wherein the digital record is accessed using a web application (see fig. 1; 0065; 0066 0147; “web browser or API”).

**14.** As per **claims 4, 13, 70, and 123**, Aldis et al further discloses the method, wherein the web application uses role-based security (0005).

**15.** As per **claims 5, 14, 71, and 124**, Aldis et al further discloses the method, wherein digital records contain configuration information for the computer authorized to run the software (0010; 0072; “...hardware fingerprint of computer requesting activation code...”).

**16.** As per **claims 6, 15, 72, and 125**, Aldis et al further discloses the method, wherein the digital records can be searched to find a specific digital record (0078; 0121; 0124; “...search and view licenses created...”).

**17.** As per **claims 7, 16, 73, and 126**, Aldis et al further discloses the method, wherein the rights are associated with a license key (0019; 0070).

**18.** As per **claims 8, 17, 74, and 127**, Aldis et al further discloses the method, wherein configuration information for the computers running the software is stored in the digital record (0010; 0072).

**19.** As per **claims 76, and 129**, Aldis et al further discloses the method, wherein upgrading or downgrading of the version is done for multiple software licenses in a batch mode (0019; 0070; “license packs”).

**20.** As per **claim 128**, Aldis et al further discloses the method, wherein the license version can also be upgraded (0103).

**21.** **Claims 9, and 18**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Aldis et al U.S. Patent Application Publication No. 2004/0039916 A1 in view of Ross et al U.S. patent No. 5,553,143 and in view of Stupek Jr. et al U.S. Patent No. 5,960,189 as applied to claims 1, and 10, above, and further in view of Horstmann U.S. Patent No. 6,009,401.

**22.** As per **claims 9, and 18**, Aldis et al, Ross et al failed to explicitly disclose the method, wherein the license version is downgraded.

Horstmann discloses the method, wherein the license version is downgraded (fig. 1; col. 2, line 60-col. 3, line 15).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Aldis et al and incorporate the method, wherein the license version is downgraded as taught by Horstmann in order to ensure availability of various product versions and/or user satisfaction.

### ***Conclusion***

**23. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures

may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles C. Agwumezie whose number is **(571) 272-6838**. The examiner can normally be reached on Monday – Friday 8:00 am – 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin Hewitt can be reached on **(571) 272 – 6709**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charlie C Agwumezie/  
Primary Examiner, Art Unit 3685  
November 17, 2008.

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